

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

SCOTT D. HARMON, #2188407

§

VS.

§

CIVIL ACTION NO. 6:18cv261

DIRECTOR, TDCJ-CID

§

ORDER OF DISMISSAL

Petitioner Scott Harmon, *pro se*, a prisoner confined within the Texas Prison system, filed this federal petition for a writ of habeas corpus. The case was referred to the United States Magistrate Judge, the Honorable Judge K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for disposition of the case.

On April 1, 2019, Judge Mitchell issued a Report, (Dkt. #7), recommending that Petitioner's habeas petition be dismissed, without prejudice, for Petitioner's failure to obey an order of the court. Specifically, Judge Mitchell found that Petitioner failed to (1) pay the \$5.00 filing fee or (2) submit an application to proceed *in forma pauperis*, as ordered by the court in July 2018, (Dkt. #5). A copy of this Report was sent to Petitioner's address; return receipt requested. The docket illustrates that Petitioner received a copy of the Report on April 23, 2019, (Dkt. #8). However, to date, no objections to the Report have been filed.

Because Petitioner has failed to file objections to Judge Mitchell's Report, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

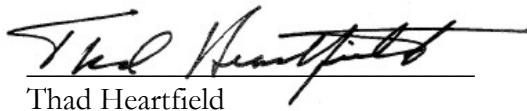
ORDERED that the Report of the United States Magistrate Judge, (Dkt. #7), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Petitioner's federal habeas petition is **DISMISSED**, without prejudice, for Petitioner's failure to obey an order of the court. Moreover, it is

ORDERED that Petitioner is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

SIGNED this the 6 day of June, 2019.


Thad Heartfield
United States District Judge